

ORDINANCE NO. 124-2015

AN ORDINANCE CHANGING THE ZONE FROM A SINGLE FAMILY RESIDENTIAL (R-1E) ZONE TO A NEIGHBORHOOD BUSINESS (B-1) ZONE, FOR 0.6439 NET (0.8714 GROSS) ACRES, FOR PROPERTY LOCATED AT 3092 & 3094 LEESTOWN ROAD. (JOURNEY'S END, LLC; COUNCIL DISTRICT 2).

WHEREAS, at a Public Hearing held on September 24, 2015 a petition for a zoning ordinance map amendment for property located at 3092 & 3094 Leestown Road from a Single Family Residential (R-1E) zone to a Neighborhood Business (B-1) zone for 0.6439 net (0.8714 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 8-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 3092 & 3094 Leestown Road from a Single Family Residential (R-1E) zone to a Neighborhood Business (B-1) zone for 0.6439 net (0.8714 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are proposed for the subject property via conditional zoning:

Prohibited Uses

- a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
- b. Carnivals and circuses on a temporary basis.
- c. Repair of household appliances.
- d. Miniature golf or putting courses.
- e. Indoor theaters.
- f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
- g. Banquet facilities.
- h. Drive-through facilities.
- i. Outdoor live entertainment and/or dancing, cocktail

- lounges and nightclubs.
- j. Extended-stay hotels.

Section 3 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: November 5, 2015

MAYOR



ATTEST:



CLERK OF URBAN COUNTY COUNCIL

Published: November 12, 2015

1289-15:TWJ:X:\Cases\PLANNING\15-LE0001\LEG\00506258.DOCX

Rec'd by _____

Date: _____

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **MAR 2015-21: JOURNEY'S END, LLC** - petition for a zone map amendment from a Single Family Residential (R-1E) zone to a Neighborhood Business (B-1) zone, for 0.6439 net (0.8714 gross) acre, for property located at 3092 & 3094 Leestown Road. (Council District 2)

Having considered the above matter on **September 24, 2015**, at a Public Hearing, and having voted **8-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reason:

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of **ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted via conditional zoning:**

Prohibited Uses

 - a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
 - b. Carnivals and circuses on a temporary basis.
 - c. Repair of household appliances.
 - d. Miniature golf or putting courses.
 - e. Indoor theaters.
 - f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
 - g. Banquet facilities.
 - h. Drive-through facilities.

- i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
- j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

ATTEST: This 9th day of October, 2015.


Secretary, Jim Duncan

MIKE OWENS
CHAIR

Note: The corollary development plan, ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, was approved by the Planning Commission on September 24, 2015 and certified on October 8, 2015.

K.R.S. 100.211(7) requires that the Council take action on this request by December 23, 2015.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Kevin Phillips, land surveyor.**

OBJECTORS

- Barb Stucker, president of the McConnell's Trace Neighborhood Association
- Olivia Escodero, 112 Long Branch Lane

OBJECTIONS

- She is concerned about the potential effects of the proposed restaurant on the adjoining neighborhood, including: lighting, noise, odors, traffic, pedestrian safety, and the viewshed from her property.
- She is concerned that overflow parking from the proposed restaurant could become an issue for residents of the Long Branch Lane cul-de-sac.

VOTES WERE AS FOLLOWS:

AYES: (8) Berkley, Brewer, Cravens, Drake, Owens, Plumlee, Richardson, Wilson

NAYS: (0)

ABSENT: (3) Mundy, Penn, Smith

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for CONDITIONAL APPROVAL of MAR 2015-21 carried.

Enclosures: Application
Plat
Staff Report
Applicable excerpts of minutes of above meeting

MAR 2015-21

Date Received 8/3/15

Pre-application Date 7/17/15

Filing Fee \$ 470.00

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

1. ADDRESS INFORMATION (Name, Address, City/State/Zip, & PHONE NO.)

APPLICANT: Journey's End, LLC, 3068 Sandersville Road, Lexington, KY 40511

OWNER: Waynard Darrell Ford, 306 Hidden Springs Drive, Somerset, Kentucky 42503

ATTORNEY: None

2. ADDRESS OF APPLICANTS PROPERTY (ATTACH LEGAL DESCRIPTION)

3092 & 3094 Leestown Road, Lexington, KY 40511

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed-same format.)

Existing Zoning	Existing Use	Requested		Acreage	
		Zoning	Use	Net	Gross
R-ID	Minor Motor Vehicle Repair	B-1	Sit down restaurant	0.6439	0.8714

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Masterson Station Park	A-R
East	Residential	R-ID
South	Vacant	R-ID
West	Residential	R-ID

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved? YES NO

b. Have any such dwelling units been present on the subject property within the past 12 months? YES NO

c. Are these units currently occupied by households earning 40% of the median income? YES NO
 If yes, how many units? _____
 If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing. n/a UNITS

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other Septic
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input type="checkbox"/> LFUCG	<input checked="" type="checkbox"/> Other		
Utilities	<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone <input type="checkbox"/> Cable

7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is ... in agreement with the Comp. Plan more appropriate than the current zoning due to unanticipated changes

8. APPLICANT/OWNER SIGNS THIS CERTIFICATION.

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am OWNER or HOLDER of an agreement to purchase this property since July 2012

APPLICANT Waynard Darrell Ford DATE 8-1-15

OWNER W.D. Ford DATE 8-3-15

LFUCG EMPLOYEE/OFFICER, if applicable _____ DATE _____

3092 & 3094 Leestown Road
Zone Change Justification

The property has served the local community as an automotive garage for over 80 years. It is currently a legal non-conforming business (B-1) in a residential zone (R1-D). Because of the property's long historic commercial use and its relative location to the residents in Bracktown, it is not suitable or properly situated for residential purposes. The given zoning classification is, therefore, inappropriate and the proposed zone change is appropriate.

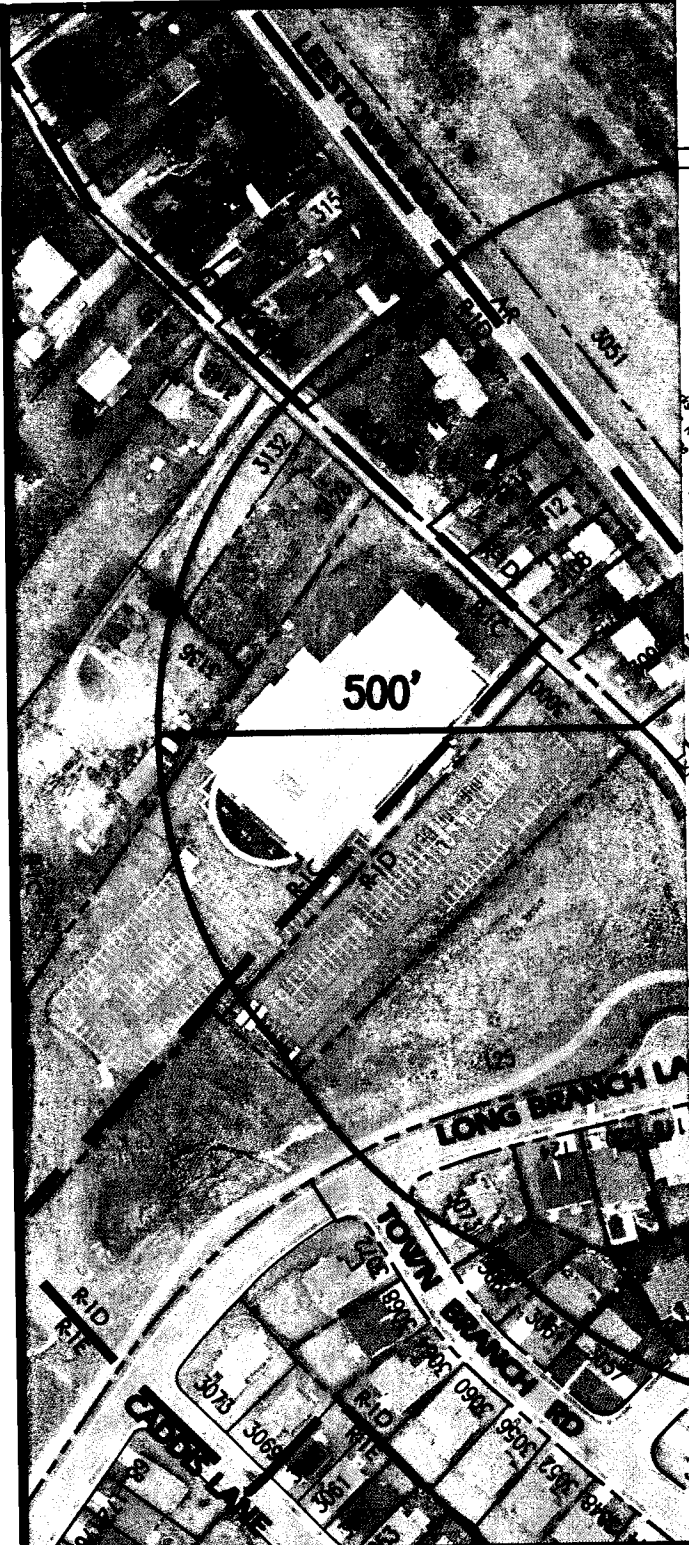
Bracktown, Masterson Station, and McConnell's Trace have recently experienced a growth surge, and the food services supplied by the Kroger Plaza and Townley Center are not conveniently available. The residents both need and desire expanded food services that the subject property will provide. These major changes in the economic, physical and social nature within the area were not anticipated in the Comprehensive plan and the changes have substantially altered the area's basic character. The comprehensive plan does make mention to the economic growth of Leestown Road as a whole pertaining to the Leestown Expansion Project, thusly this particular zone change would be in line to keep with the character of such expansion.

The Leestown area as a whole is transforming in new and exciting ways. With the Leestown expansion project the area is getting new economic development and this project will fit in appropriately to the new overall feel of the Leestown area. Given that the suitability of the land is not fit for residential use, and the business that is currently located on the land is in disrepair, this property needs to be updated in order to become an asset to the local community, rather than an eyesore.

The property owner desires to improve the aesthetics of the local community by revitalizing this portion of Bracktown and Leestown Road. With the zoning listed as R1-D no improvements can be made to the land or to the building, thusly the building has not kept up with the local aesthetics and we wish to change that to make it a business that the community is proud to call its own. The applicant seeks to bring his property in conformity with the applicable zone use to benefit of the community.



Z:\3481 Leestown Rd...ning\3481 Notification Map.dwg, Layout1, 8/7/2015 3:04:42 PM, RICOH Aficio MF C4500 PCL 5c, 1:1, JMN

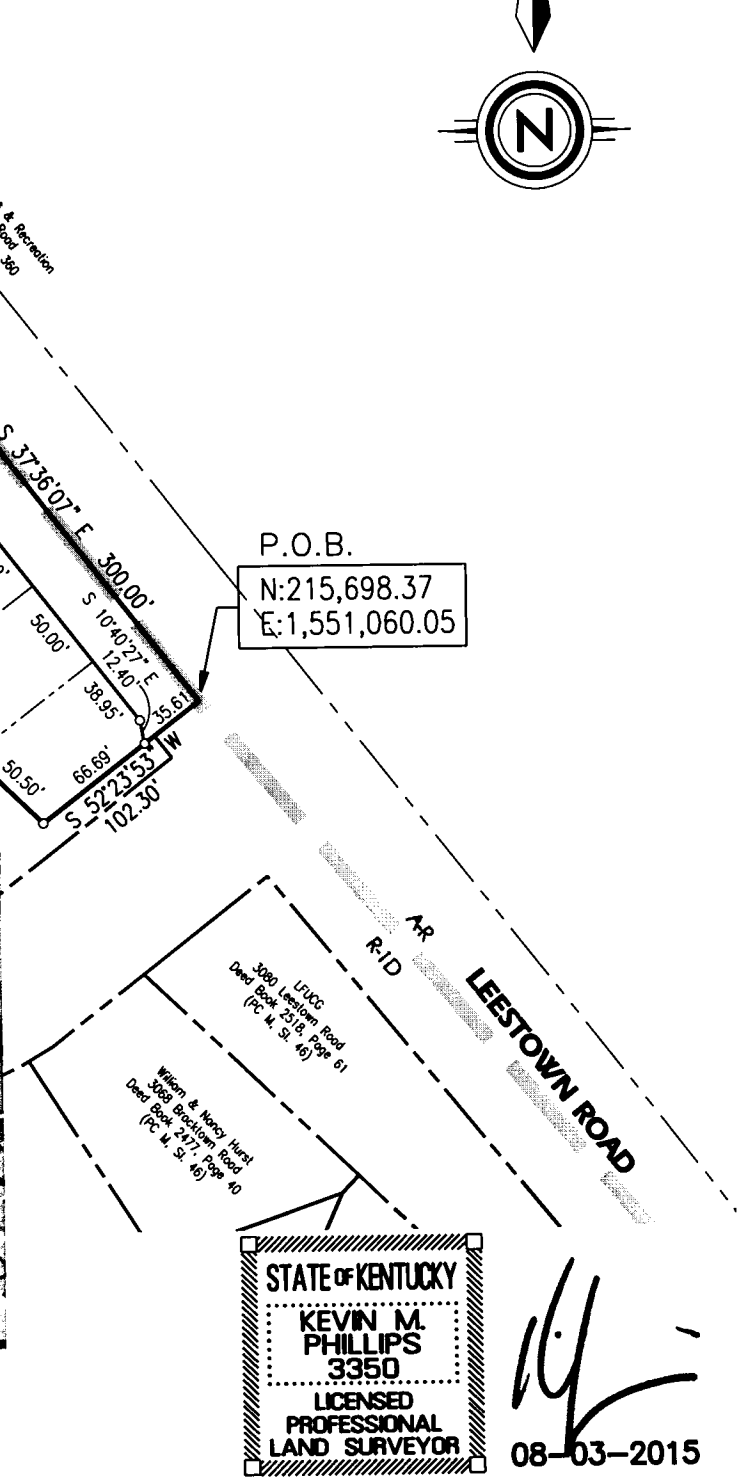


NOTIFICATION AREA MAP

PROPERTY MAP

100' 200'

Graphic Scale: 1" = 100'



P.O.B.
N:215,698.37
E:1,551,060.05

STATE OF KENTUCKY
KEVIN M. PHILLIPS
3350
LICENSED PROFESSIONAL LAND SURVEYOR

[Signature]
08-03-2015

PREPARED BY:

TO	NET	GROSS
B-1	0.6439	0.8714

EE ENDI
engineer
Land Surveyors • Construction Layout

LE: Leestown Heights Subdivision - Lots 2-7
ADDRESS: #3092 & 3094 Leestown Road - Lexington - KY
APPLICANT: Journey's End, LLC
OWNER: Waynard Darrell Ford
DATE FILED OR AMENDED: August 03, 2015

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-21: JOURNEY'S END, LLC

DESCRIPTION

Zone Change: From a Single Family Residential (R-1D) zone
To a Neighborhood Business (B-1) zone

Acreage: 0.6439 net (0.8714 gross) acre

Location: 3092 & 3094 Leestown Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-1D	Non-conforming commercial use
To North	A-R	Masterson Station Park
To East	R-1D	Single Family Residential and Vacant
To South	R-ID	Vacant and Church
To West	R-1C & R-1D	Vacant and Single Family Residential

URBAN SERVICES REPORT

Roads – Leestown Road (US 421), which provides some of the subject property's lot frontage, extends from downtown to the Fayette/Scott County line. Along the property's frontage, the roadway transitions from a three-lane cross-section to a two-lane cross-section as it approaches the Federal Correction Facility to the northwest. Closer to New Circle Road, Leestown Road is currently undergoing a major widening and improvement project. Bracktown Road, the former US 421 route, provides the remainder of the frontage for the subject property. The entrance to the site is from Leestown Road, but a future access to Bracktown Road is possible for this location. The access point to Leestown Road will be constructed by the Kentucky Transportation Cabinet. Any modifications will require approval of both the KYTC and the LFUCG Division of Traffic Engineering.

Curb/Gutter/Sidewalks – Curbs, gutters and sidewalks do not exist along Leestown Road or along most of Bracktown Road. However, a pedestrian and bicycle trail does access two residential lots immediately to the southeast of the subject property.

Storm Sewers – Storm sewers and a storm water basin exist to serve the nearby Marshall Property subdivision; however, the subject property, located within the same watershed, is not currently served. There is no FEMA flood hazard area, nor are there any known flooding problems, in the immediate vicinity. The Division of Engineering will evaluate the applicant's plan to determine whether any further modifications are necessary due to the proposed increase to building coverage now proposed on the subject site.

Sanitary Sewers – The subject property, as well as the entire surrounding area, is within the Town Branch sewershed. The Town Branch Wastewater Treatment Plant is located approximately two miles to the southeast of the site (off of Lisle Industrial Road along the Town Branch Creek). The subject property has been served by a septic system, rather than by sanitary sewers, for decades.

Refuse – Refuse collection is provided by the Urban County Government on Thursdays in this part of the Urban Service Area. Oftentimes, commercial properties contract with private companies for more frequent service.

Police – The subject property is within Police Sector 1 and is served by the West Sector Roll Call Center, which is located on Old Frankfort Pike, approximately three miles to the south.

Fire/Ambulance – The nearest fire station/emergency provider (Station #13) is located on Leestown Road, about two miles southeast of the property.

Utilities – Natural gas, telephone service, electric, water, streetlights, and cable service are all available to surrounding properties, and should be able to be easily extended to serve the subject site, if not already providing such service.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting

the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner has requested a Neighborhood Business (B-1) zone for the subject property in order to expand the existing commercial building on the site for a new sit-down restaurant.

CASE REVIEW

The petitioner has requested a zone change from a Single Family Residential (R-1D) zone to a Neighborhood Business (B-1) zone for just under one acre of property, located on the southwest corner of the intersection of Leestown Road and Bracktown Road.

The subject site is comprised of the remainder of six original lots in the Leestown Heights Subdivision, created decades before merger of the Urban County and Lexington City governments, which together encompass the area of this zone change. The subject property is across from Masterson Station Park, and adjacent to homes in the Marshall Property subdivision. Bracktown Baptist Church is located across Bracktown Road from the site, and owns a vacant lot adjacent to the subject property immediately to the northwest of this location. Another small, vacant lot "wraps" the site to the southeast and southwest.

The subject property has extensive frontage along Leestown Road, which transitions from two to four lanes immediately to the southeast of this location. The property has been used for commercial purposes for decades, and is a non-conforming use. It has had numerous requests for land use changes and one previous attempt for a rezoning in 1997 (MAR 97-25: John Brotherton). That staff report gives a good bit of information about the history of this location:

"The 3092 Leestown Road tract is currently occupied by J's Auto Center, which is a non-conforming use. Although zoned single family residential (R-1D) for at least 30 years, the property has been occupied by a gas station for several decades. The existing (gas station) structure is about 1,000 square feet in size, and as a non-conforming use, cannot be expanded. The 3094 Leestown Road tract is vacant, with the exception of concrete or asphalt paving for the non-conforming auto-related use."

In 1998, a sub-committee of the Planning Commission drafted and completed the Bracktown Small Area Plan. Future land use recommendations and a modest expansion of the Urban Service Area were made, where the Marshall Property and the Bracktown neighborhood were taken from the Rural Service Area. That Small Area Plan, which included extensive neighborhood involvement, did not recommend a commercial land use at this location. The applicant does not opine that this current zone is in agreement with the 2013 Comprehensive Plan, with which the staff concurs.

In June of 2000, a request was made to the Division of Building Inspection to allow beer sales and the sale of trees and shrubs at this site. That request was denied by Building Inspection, and an Administrative Appeal of that decision was filed by the property owner to the Board of Adjustment (A-2000-02: John Brotherton), which was not approved by the Board.

This portion of the Urban Service Area is generally devoid of commercial land uses and zoning. Still, a commercial land use has occupied this location for many decades. The applicant now wishes to convert the former repair shop to a sit-down restaurant, and formalize the off-street parking on this lot. They justify their request with the statement that the current R-1D zoning is inappropriate, and the proposed Neighborhood Business (B-1) zoning is appropriate.

Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes. There are residences to the west that also have lot frontage along both Leestown and Bracktown Roads, but those properties are more rectangular in shape, and are bordered by other residences. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a real-estate perspective.

The highway expansion project for US 421 is the proper time to recognize a commercial use that has not gone away since at least 1952, and allow its conversion into a small restaurant or business to serve the nearby residential areas. The requested Neighborhood Business (B-1) zone is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location. Conditional zoning restrictions are necessary in this circumstance, due to the adjacency of a large church and an established neighborhood in close proximity to this property. Of particular concern to the staff are entertainment-type land uses, and package sales of alcohol (but not accessory sales within a restaurant).

The staff recommends Approval for the following reason:

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall restricted via conditional zoning:

Prohibited Uses

- a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
- b. Carnivals and circuses on a temporary basis.
- c. Repair of household appliances.
- d. Miniature golf or putting courses.
- e. Indoor theaters.
- f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
- g. Banquet facilities.
- h. Drive-through facilities.
- i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
- j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

WLS/BJR/TLW

9/3/2015

I:/Planning Services/Staff Reports/MAR/2015/MAR 2015-21.doc

Note: Ms. Mundy left the meeting at this time.

5. **JOURNEY'S END, LLC, ZONING MAP AMENDMENT & LEESTOWN HEIGHTS SUBDIVISION, LOTS 2-7 ZONING DEVELOPMENT PLAN**

- a. **MAR 2015-21: JOURNEY'S END, LLC (11/1/15)*** - petition for a zone map amendment from a Single Family Residential (R-1E) zone to a Neighborhood Business (B-1) zone, for 0.6439 net (0.8714 gross) acre, for property located at 3092 & 3094 Leestown Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner has requested a Neighborhood Business (B-1) zone for the subject property in order to expand the existing commercial building on the site for a new sit-down restaurant.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reason:

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
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2. This recommendation is made subject to approval and certification of ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted via conditional zoning:

Prohibited Uses

- a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
- b. Carnivals and circuses on a temporary basis.
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- h. Drive-through facilities.
- i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
- j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

- b. **ZDP 2015-82: LEESTOWN HEIGHTS SUBDIVISION, LOTS 2-7 (11/1/15)*** - located at 3092 and 3094 Leestown Road.
(Endris Engineering)

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.

* - Denotes date by which Commission must either approve or disapprove request.

September 24, 2015

5. Correct notes #3 & #8.
6. Clarify use of "comm. boxes" indicated on plan.
7. Denote interior landscaping dimensions.
8. Denote construction access location on plan.
9. Denote floor area ratio and lot coverage per Article 21 requirements.
10. Denote adjoining property zoning on plan.
11. Resolve access to Town Branch Trail at time of the final development plan.

Zoning Presentation: Mr. Sallee presented the staff report on this rezoning request, noting that the staff had received two letters and four emails in opposition to this request. He circulated these to the Commission this time. He oriented the Commission to the location of the subject property, which is comprised of two lots at the corner of Bracktown Road and Leestown Road, across from Masterson Station Park. Most of the zoning in the vicinity of the subject property is R-1C and R-1E, with the Bracktown Baptist Church facility also in close proximity.

Mr. Sallee displayed the following photographs of the subject property: 1) an aerial view of the property from the east, noting that a gas station was formerly located there for about 80 years as a non-conforming use in the R-1D zone; 2) a view of the former gas station, which was most recently used for minor auto repair; 3) a closer view of the gas station; 4) Leestown Road, near the entrance to the Federal Medical Center prison facility, noting that Leestown is currently being upgraded to four lanes at this location; 5) a view of Leestown Road; 6) a vehicle exiting Long Branch Lane from Leestown Road, noting the visible houses in the McConnell's Trace subdivision, some of which front on the small portion of Long Branch Lane near the subject property; 7) a view of Bracktown Road, on which the rear of the subject property has frontage; 8) a view to the north and west into Bracktown, noting the entrance to the church; and 9) an exhibit from the Bracktown Small Area Plan, which was done in the 1990s.

Mr. Sallee said that the Bracktown Small Area Plan allowed this portion of Fayette County to be included in the Urban Service Area, and addressed the needs of the Bracktown neighborhood. No change to the zoning or land use of the subject property was recommended as part of that Small Area Plan, although the property had previously been proposed for rezoning in 1997. That rezoning proposal was withdrawn. In 2000, the subject property went before the Board of Adjustment, due to a request by the owner for alcohol sales and the sale of trees and shrubs at this location. That application, which was an administrative appeal, was denied, in order to avoid the expansion of an existing non-conforming use.

Mr. Sallee stated that the petitioner is proposing to rezone the subject property in order to convert the existing building into a restaurant with off-street parking. The staff noted in their report that the subject property is different from many others in the area, in that it effectively has frontage on three sides. Most of the other parcels in Bracktown are double-frontage lots, but they are much more rectangular in shape, as are the newer subdivision lots to the south, on the former Marshall property. The Leestown Road highway expansion seems like a logical time to allow the subject property to be rezoned in a manner that would allow its expansion. Mr. Sallee noted that the staff does believe it is necessary, if the subject property is rezoned, to limit a number of uses via conditional zoning. The staff and the Zoning Committee are recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, explaining that the petitioner is proposing to re-use the existing building on the subject property and incorporate it into the new restaurant. The restaurant is proposed to be 5,000 square feet in size, with 25 parking spaces. One access is proposed from Leestown Road, and one from Bracktown Road.

Mr. Martin stated that the petitioner presented a revised plan at the Subdivision Committee meeting; that revision proposed the closure of one of the existing accesses to Bracktown Road. However, the petitioner has not officially filed a revision, so the staff has not been able to review it or create revised conditions. Mr. Martin noted that the staff is recommending, at the time of a Final Development Plan for the property, the resolution of a connection to Town Branch Trail. He said that the Subdivision Committee recommended approval of this plan, subject to the conditions as listed on the agenda.

Petitioner Presentation: Kevin Phillips, Endris Engineering, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendation.

Mr. Phillips stated that the subject property has been used for a commercial business for 80+ years, and the petitioner would like to continue and expand that use as a new restaurant. The petitioner contends that the purpose of the B-1 zone is to provide neighborhoods with facilities and services in close proximity to where people live.

Mr. Phillips displayed several photographs for the Commission members, noting that there are only two business zones in the vicinity: the site of the future Citation Village shopping center along the Citation Boulevard corridor, and

* - Denotes date by which Commission must either approve or disapprove request.

the Frank Minnifield Enterprises historic business site. He displayed a map of other arterials in Lexington-Fayette County, noting the locations of other B-1 zones along those roadways.

Mr. Phillips stated that the B-1 zone does allow other uses besides restaurants, including banks, offices, beauty shops, daycares, and other neighborhood-oriented uses. Because of the proposed conditional zoning restrictions, particularly drive-through facilities, however, the petitioner contends that the proposed restaurant will not have a negative impact on the surrounding neighborhood. Fast-food restaurants and banks depend on drive-throughs for the majority of their business; and, without those facilities, the subject property should not generate a significant amount of traffic.

Brandon Green, petitioner, stated, with regard to the opposition letters received, that the Facebook account for the proposed restaurant was generating support and excitement online. He said that the subject property has been used as a business for 80+ years. Due to the subject property's frontage on Leestown Road, Mr. Green does not believe it is conducive to residential use, and he would request approval in order to move forward with the proposed restaurant.

Citizen Support: There were no citizens present in support of this request.

Citizen Opposition: Barb Stucker, president of the McConnell's Trace Neighborhood Association, stated that the rear of her property faces the subject property. She said that there are two homes in McConnell's Trace that face the subject property, and four homes at the end of the Long Branch Lane cul-de-sac, that currently have a view of the trail and adjoining open space. The residents' main concern is the possible loss of property value, since homes located as little as 40' from a busy restaurant are unlikely to sell.

Ms. Stucker said that residents are also concerned about possible noise from the proposed restaurant, including indoor entertainment. Residents are also concerned about lighting on the property, security and crime issues, and the possible issuance of a liquor license to the proposed restaurant. Since the rear of the restaurant will face the neighborhood, residents believe that the dumpster location could also become an issue, since it could attract vermin and generate unpleasant odors.

Ms. Stucker stated that residents believe that the proposed restaurant will generate a significant amount of additional traffic in the area, particularly on Bracktown Road. They are concerned that the proposed access to Leestown Road will be located at the point where the roadway widens to four lanes, which could increase the number of accidents and cause widespread traffic problems in the vicinity. Residents have also indicated that they would feel unsafe on the Town Branch Trail once the proposed restaurant opens, due to increased activity in the area. There have been problems in the past with drivers parking on Long Branch Lane to access the trail, or driving across the trail to reach the cul-de-sac, and residents believe the issue could be exacerbated by parking for the proposed restaurant. Should the restaurant be unsuccessful, residents are concerned about what type of business could locate on the subject property.

Ms. Stucker asked that the Planning Commission members consider how close the proposed restaurant will be to existing homes, and the effect that it could have on the peace and quiet in the neighborhood.

Olivia Escodero, 112 Long Branch Lane, stated that her home directly faces the subject property. She stated that she is concerned about overflow parking for the proposed restaurant, since drivers have used Long Branch Lane to provide access to the Bracktown Baptist Church child care center in the past.

Petitioner Rebuttal: Mr. Phillips stated, with regard to parking in the cul-de-sac and drivers crossing the trail, that those activities are not currently caused by the use of the subject property, since it is vacant; so, they should not be worsened by the location of a restaurant there. He noted that it is not illegal to park on a public street, and no parking has been provided for the Town Branch Trail, so it makes sense that some drivers might park on Long Branch Lane to access the trail. That activity, however, is also unrelated to the current use of the subject property.

With regard to the concerns about odors, lighting, and noise from the subject property, Mr. Phillips said that the proposed restaurant will be a small, family operation, and a much less intense use than typical fast-food businesses with drive-throughs. Any lighting on the property will be directed inward and downward, as required by the Zoning Ordinance, which requires lighting for safety in the parking lot. The petitioner does not propose to have live entertainment on the property, so the amount of noise generated should be minimal. Mr. Phillips stated that, should the restaurant no longer be in operation on the subject property, the proposed conditional zoning restrictions will limit the number of allowable uses, particularly since drive-through facilities will be prohibited.

Mr. Phillips said, in response to concerns about the view from the houses near the subject property, that, due to the existing pine trees on an adjoining parcel, those residents would be unlikely to see the proposed restaurant at all. He displayed several photographs taken from the driveways of those homes located on the cul-de-sac, noting that the existing building on the property was not visible. Mr. Phillips stated that it would be unreasonable to think that the subject property will never be redeveloped, so the cul-de-sac residents will not have always have an open view of the

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park. The existing building on the property has been in place for over 80 years, long before the adjoining neighborhood was developed, and the petitioner contends that allowing the property to remain vacant would not be its highest and best use.

Mr. Phillips added, with regard to concerns about the safety of the proposed access to Leestown Road, that the Kentucky Transportation Cabinet (KYTC) provided infrastructure for two accesses to the subject property, but the petitioner is requesting only one narrower entrance, further from the nearest intersection. KYTC has approved the one proposed access.

Citizen Rebuttal: Ms. Stucker agreed that there was an existing business on the subject property when the neighborhood was constructed, but noted that it was a very quiet, low-impact operation. She added that Mr. Phillips did not address the question of loss of property value as a result of the proposed restaurant.

Staff Rebuttal: Mr. Sallee indicated that the staff had no rebuttal comments.

Commission Discussion: Mr. Owens stated that the hearing was now closed, and he opened the floor for Commission questions and/or comments.

Ms. Plumlee thanked the neighbors for their participation. She noted that the LFUCG Zoning Ordinance does an excellent job of regulating planning and zoning issues in the community, but it does not guarantee peace and quiet for any property owner. Ms. Plumlee stated that, as the proposed restaurant moves forward, the residents' concerns about lighting, noise, and the dumpster location should be addressed, and that the conditional zoning restrictions should help to mitigate the impact on the adjoining neighborhood.

Mr. Owens echoed Ms. Plumlee's statements, thanking the citizens for their participation. He noted that this is a preliminary zoning development plan, and that the Commission will have the opportunity to review a Final Development Plan for the property if the proposed restaurant goes forward. He added that the subject property has been used for many years, and he believes that redevelopment there is inevitable.

Zoning Action: A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 8-0 (Mundy, Penn, and Smith absent) to approve MAR 2015-21, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 8-0 (Mundy, Penn, and Smith absent) to approve ZDP 2015-82, subject to the conditions as listed on the agenda.

* - Denotes date by which Commission must either approve or disapprove request.

Rec'd by _____

Date: _____

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **MAR 2015-21: JOURNEY'S END, LLC** - petition for a zone map amendment from a Single Family Residential (R-1E) zone to a Neighborhood Business (B-1) zone, for 0.6439 net (0.8714 gross) acre, for property located at 3092 & 3094 Leestown Road. (Council District 2)

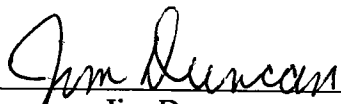
Having considered the above matter on **September 24, 2015**, at a Public Hearing, and having voted **8-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reason:

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of **ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted via conditional zoning:**
Prohibited Uses
 - a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
 - b. Carnivals and circuses on a temporary basis.
 - c. Repair of household appliances.
 - d. Miniature golf or putting courses.
 - e. Indoor theaters.
 - f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
 - g. Banquet facilities.
 - h. Drive-through facilities.

- i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
- j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

ATTEST: This 9th day of October, 2015.


 Secretary, Jim Duncan

MIKE OWENS
 CHAIR

Note: The corollary development plan, ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, was approved by the Planning Commission on September 24, 2015 and certified on October 8, 2015.

K.R.S. 100.211(7) requires that the Council take action on this request by December 23, 2015.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Kevin Phillips, land surveyor.**

OBJECTORS

- Barb Stucker, president of the McConnell's Trace Neighborhood Association
- Olivia Escodero, 112 Long Branch Lane

OBJECTIONS

- She is concerned about the potential effects of the proposed restaurant on the adjoining neighborhood, including: lighting, noise, odors, traffic, pedestrian safety, and the viewshed from her property.
- She is concerned that overflow parking from the proposed restaurant could become an issue for residents of the Long Branch Lane cul-de-sac.

VOTES WERE AS FOLLOWS:

AYES: (8) Berkley, Brewer, Cravens, Drake, Owens, Plumlee, Richardson, Wilson

NAYS: (0)

ABSENT: (3) Mundy, Penn, Smith

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for CONDITIONAL APPROVAL of MAR 2015-21 carried.

Enclosures: Application
 Plat
 Staff Report
 Applicable excerpts of minutes of above meeting

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

1. ADDRESS INFORMATION (Name, Address, City/State/Zip, & PHONE NO.)

APPLICANT: Journey's End, LLC, 3068 Sandersville Road, Lexington, KY 40511

OWNER: Waynard Darrell Ford, 306 Hidden Springs Drive, Somerset, Kentucky 42503

ATTORNEY: None

2. ADDRESS OF APPLICANTS PROPERTY (ATTACH LEGAL DESCRIPTION)

3092 & 3094 Leestown Road, Lexington, KY 40511

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed-same format.)

Existing Zoning	Existing Use	Requested		Acreage	
		Zoning	Use	Net	Gross
R-ID	Minor Motor Vehicle Repair	B-1	Sit down restaurant	0.6439	0.8714

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Masterson Station Park	A-R
East	Residential	R-ID
South	Vacant	R-ID
West	Residential	R-ID

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved? YES NO

b. Have any such dwelling units been present on the subject property within the past 12 months? YES NO

c. Are these units currently occupied by households earning 40% of the median income? YES NO
 If yes, how many units? _____
 If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing. n/a UNITS

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other Septic
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input type="checkbox"/> LFUCG	<input checked="" type="checkbox"/> Other		
Utilities	<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone <input type="checkbox"/> Cable

7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is ... in agreement with the Comp. Plan more appropriate than the current zoning due to unanticipated changes

8. APPLICANT/OWNER SIGNS THIS CERTIFICATION.

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am OWNER or HOLDER of an agreement to purchase this property since July 2012

APPLICANT Waynard Darrell Ford DATE 8-1-15

OWNER Ky T. Ford DATE 8-3-15

LFUCG EMPLOYEE/OFFICER, if applicable _____ DATE _____

3092 & 3094 Leestown Road
Zone Change Justification

The property has served the local community as an automotive garage for over 80 years. It is currently a legal non-conforming business (B-1) in a residential zone (R1-D). Because of the property's long historic commercial use and its relative location to the residents in Bracktown, it is not suitable or properly situated for residential purposes. The given zoning classification is, therefore, inappropriate and the proposed zone change is appropriate.

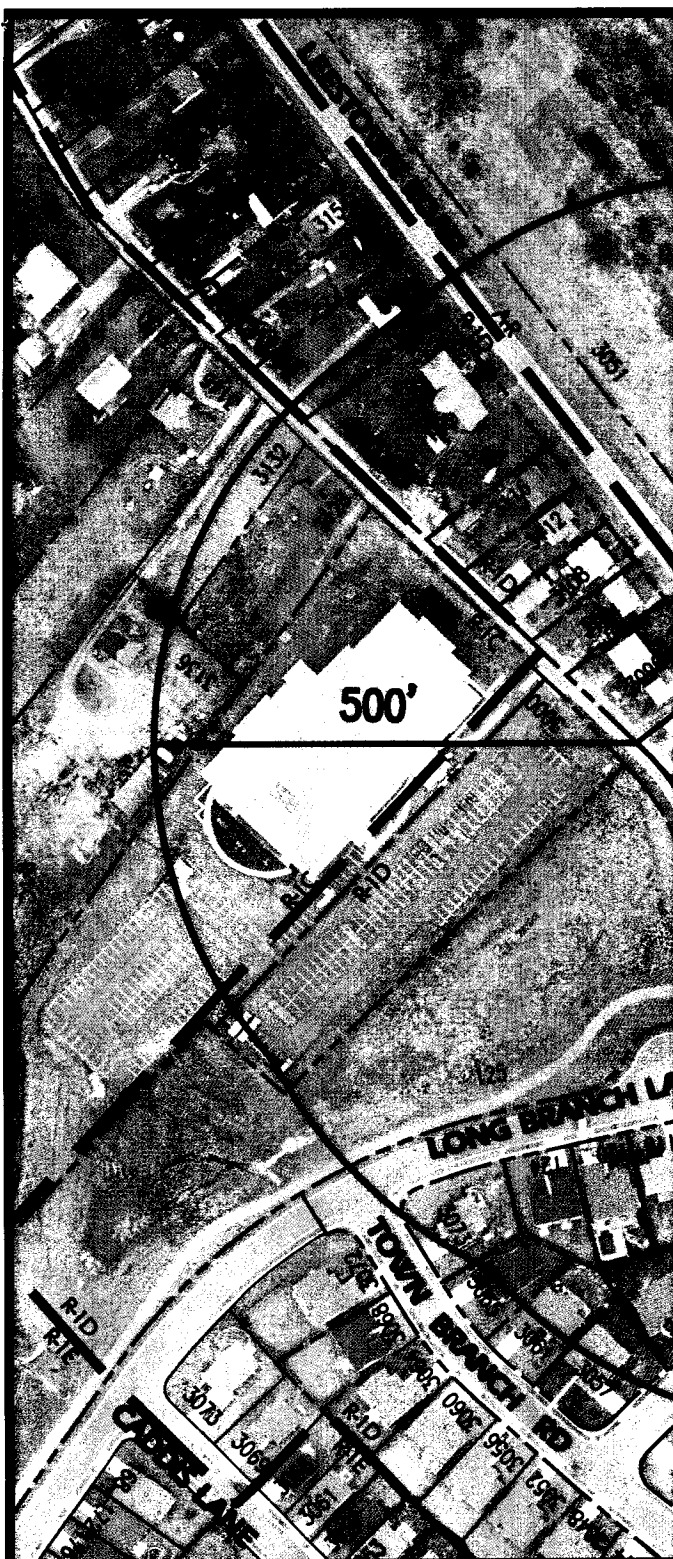
Bracktown, Masterson Station, and McConnell's Trace have recently experienced a growth surge, and the food services supplied by the Kroger Plaza and Townley Center are not conveniently available. The residents both need and desire expanded food services that the subject property will provide. These major changes in the economic, physical and social nature within the area were not anticipated in the Comprehensive plan and the changes have substantially altered the area's basic character. The comprehensive plan does make mention to the economic growth of Leestown Road as a whole pertaining to the Leestown Expansion Project, thusly this particular zone change would be in line to keep with the character of such expansion.

The Leestown area as a whole is transforming in new and exciting ways. With the Leestown expansion project the area is getting new economic development and this project will fit in appropriately to the new overall feel of the Leestown area. Given that the suitability of the land is not fit for residential use, and the business that is currently located on the land is in disrepair, this property needs to be updated in order to become an asset to the local community, rather than an eyesore.

The property owner desires to improve the aesthetics of the local community by revitalizing this portion of Bracktown and Leestown Road. With the zoning listed as R1-D no improvements can be made to the land or to the building, thusly the building has not kept up with the local aesthetics and we wish to change that to make it a business that the community is proud to call its own. The applicant seeks to bring his property in conformity with the applicable zone use to benefit of the community.

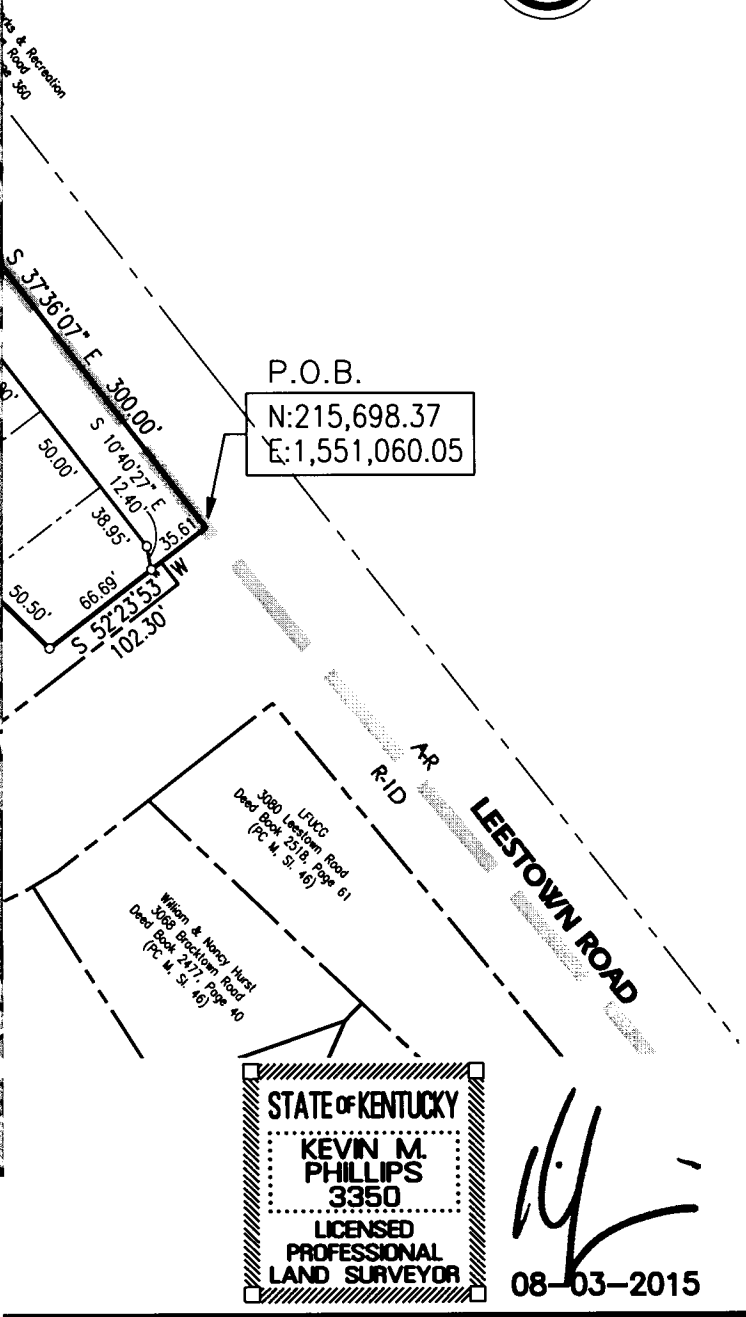
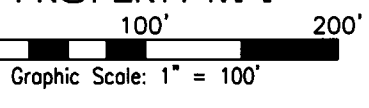


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NOTIFICATION AREA MAP

PROPERTY MAP



STATE OF KENTUCKY
KEVIN M. PHILLIPS
 3350
 LICENSED PROFESSIONAL LAND SURVEYOR

[Signature]
 08-03-2015

PREPARED BY: A

	TO	NET	GROSS
D	B-1	0.6439	0.8714

EE ENGINEERS
 Land Surveyors • Construction Layout

PROJECT: Leestown Heights Subdivision - Lots 2-7
 ADDRESS: #3092 & 3094 Leestown Road - Lexington - KY
 APPLICANT: Journey's End, LLC
 OWNER: Waynard Darrell Ford
 DATE FILED OR AMENDED: August 03, 2015

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-21: JOURNEY'S END, LLC

DESCRIPTION

Zone Change: From a Single Family Residential (R-1D) zone
To a Neighborhood Business (B-1) zone

Acres: 0.6439 net (0.8714 gross) acre

Location: 3092 & 3094 Leestown Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-1D	Non-conforming commercial use
To North	A-R	Masterson Station Park
To East	R-1D	Single Family Residential and Vacant
To South	R-ID	Vacant and Church
To West	R-1C & R-1D	Vacant and Single Family Residential

URBAN SERVICES REPORT

Roads – Leestown Road (US 421), which provides some of the subject property's lot frontage, extends from downtown to the Fayette/Scott County line. Along the property's frontage, the roadway transitions from a three-lane cross-section to a two-lane cross-section as it approaches the Federal Correction Facility to the northwest. Closer to New Circle Road, Leestown Road is currently undergoing a major widening and improvement project. Bracktown Road, the former US 421 route, provides the remainder of the frontage for the subject property. The entrance to the site is from Leestown Road, but a future access to Bracktown Road is possible for this location. The access point to Leestown Road will be constructed by the Kentucky Transportation Cabinet. Any modifications will require approval of both the KYTC and the LFUCG Division of Traffic Engineering.

Curb/Gutter/Sidewalks – Curbs, gutters and sidewalks do not exist along Leestown Road or along most of Bracktown Road. However, a pedestrian and bicycle trail does access two residential lots immediately to the southeast of the subject property.

Storm Sewers – Storm sewers and a storm water basin exist to serve the nearby Marshall Property subdivision; however, the subject property, located within the same watershed, is not currently served. There is no FEMA flood hazard area, nor are there any known flooding problems, in the immediate vicinity. The Division of Engineering will evaluate the applicant's plan to determine whether any further modifications are necessary due to the proposed increase to building coverage now proposed on the subject site.

Sanitary Sewers – The subject property, as well as the entire surrounding area, is within the Town Branch sewershed. The Town Branch Wastewater Treatment Plant is located approximately two miles to the southeast of the site (off of Lisle Industrial Road along the Town Branch Creek). The subject property has been served by a septic system, rather than by sanitary sewers, for decades.

Refuse – Refuse collection is provided by the Urban County Government on Thursdays in this part of the Urban Service Area. Oftentimes, commercial properties contract with private companies for more frequent service.

Police – The subject property is within Police Sector 1 and is served by the West Sector Roll Call Center, which is located on Old Frankfort Pike, approximately three miles to the south.

Fire/Ambulance – The nearest fire station/emergency provider (Station #13) is located on Leestown Road, about two miles southeast of the property.

Utilities – Natural gas, telephone service, electric, water, streetlights, and cable service are all available to surrounding properties, and should be able to be easily extended to serve the subject site, if not already providing such service.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting

the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner has requested a Neighborhood Business (B-1) zone for the subject property in order to expand the existing commercial building on the site for a new sit-down restaurant.

CASE REVIEW

The petitioner has requested a zone change from a Single Family Residential (R-1D) zone to a Neighborhood Business (B-1) zone for just under one acre of property, located on the southwest corner of the intersection of Leestown Road and Bracktown Road.

The subject site is comprised of the remainder of six original lots in the Leestown Heights Subdivision, created decades before merger of the Urban County and Lexington City governments, which together encompass the area of this zone change. The subject property is across from Masterson Station Park, and adjacent to homes in the Marshall Property subdivision. Bracktown Baptist Church is located across Bracktown Road from the site, and owns a vacant lot adjacent to the subject property immediately to the northwest of this location. Another small, vacant lot "wraps" the site to the southeast and southwest.

The subject property has extensive frontage along Leestown Road, which transitions from two to four lanes immediately to the southeast of this location. The property has been used for commercial purposes for decades, and is a non-conforming use. It has had numerous requests for land use changes and one previous attempt for a rezoning in 1997 (MAR 97-25: John Brotherton). That staff report gives a good bit of information about the history of this location:

"The 3092 Leestown Road tract is currently occupied by J's Auto Center, which is a non-conforming use. Although zoned single family residential (R-1D) for at least 30 years, the property has been occupied by a gas station for several decades. The existing (gas station) structure is about 1,000 square feet in size, and as a non-conforming use, cannot be expanded. The 3094 Leestown Road tract is vacant, with the exception of concrete or asphalt paving for the non-conforming auto-related use."

In 1998, a sub-committee of the Planning Commission drafted and completed the Bracktown Small Area Plan. Future land use recommendations and a modest expansion of the Urban Service Area were made, where the Marshall Property and the Bracktown neighborhood were taken from the Rural Service Area. That Small Area Plan, which included extensive neighborhood involvement, did not recommend a commercial land use at this location. The applicant does not opine that this current zone is in agreement with the 2013 Comprehensive Plan, with which the staff concurs.

In June of 2000, a request was made to the Division of Building Inspection to allow beer sales and the sale of trees and shrubs at this site. That request was denied by Building Inspection, and an Administrative Appeal of that decision was filed by the property owner to the Board of Adjustment (A-2000-92: John Brotherton), which was not approved by the Board.

This portion of the Urban Service Area is generally devoid of commercial land uses and zoning. Still, a commercial land use has occupied this location for many decades. The applicant now wishes to convert the former repair shop to a sit-down restaurant, and formalize the off-street parking on this lot. They justify their request with the statement that the current R-1D zoning is inappropriate, and the proposed Neighborhood Business (B-1) zoning is appropriate.

Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes. There are residences to the west that also have lot frontage along both Leestown and Bracktown Roads, but those properties are more rectangular in shape, and are bordered by other residences. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a real-estate perspective.

The highway expansion project for US 421 is the proper time to recognize a commercial use that has not gone away since at least 1952, and allow its conversion into a small restaurant or business to serve the nearby residential areas. The requested Neighborhood Business (B-1) zone is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location. Conditional zoning restrictions are necessary in this circumstance, due to the adjacency of a large church and an established neighborhood in close proximity to this property. Of particular concern to the staff are entertainment-type land uses, and package sales of alcohol (but not accessory sales within a restaurant).

The Staff Recommends: Approval, for the following reason:

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall restricted via conditional zoning:

Prohibited Uses

- a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
- b. Carnivals and circuses on a temporary basis.
- c. Repair of household appliances.
- d. Miniature golf or putting courses.
- e. Indoor theaters.
- f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
- g. Banquet facilities.
- h. Drive-through facilities.
- i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs.
- j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

Note: Ms. Mundy left the meeting at this time.

5. JOURNEY'S END, LLC, ZONING MAP AMENDMENT & LEESTOWN HEIGHTS SUBDIVISION, LOTS 2-7 ZONING DEVELOPMENT PLAN

- a. MAR 2015-21: JOURNEY'S END, LLC (11/1/15)* - petition for a zone map amendment from a Single Family Residential (R-1E) zone to a Neighborhood Business (B-1) zone, for 0.6439 net (0.8714 gross) acre, for property located at 3092 & 3094 Leestown Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner has requested a Neighborhood Business (B-1) zone for the subject property in order to expand the existing commercial building on the site for a new sit-down restaurant.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reason:

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted via conditional zoning:

Prohibited Uses

 - a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
 - b. Carnivals and circuses on a temporary basis.
 - c. Repair of household appliances.
 - d. Miniature golf or putting courses.
 - e. Indoor theaters.
 - f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
 - g. Banquet facilities.
 - h. Drive-through facilities.
 - i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
 - j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

- b. ZDP 2015-82: LEESTOWN HEIGHTS SUBDIVISION, LOTS 2-7 (11/1/15)* - located at 3092 and 3094 Leestown Road.
(Endris Engineering)

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.

* - Denotes date by which Commission must either approve or disapprove request.

5. Correct notes #3 & #8.
6. Clarify use of "comm. boxes" indicated on plan.
7. Denote interior landscaping dimensions.
8. Denote construction access location on plan.
9. Denote floor area ratio and lot coverage per Article 21 requirements.
10. Denote adjoining property zoning on plan.
11. Resolve access to Town Branch Trail at time of the final development plan.

Zoning Presentation: Mr. Sallee presented the staff report on this rezoning request, noting that the staff had received two letters and four emails in opposition to this request. He circulated these to the Commission this time. He oriented the Commission to the location of the subject property, which is comprised of two lots at the corner of Bracktown Road and Leestown Road, across from Masterson Station Park. Most of the zoning in the vicinity of the subject property is R-1C and R-1E, with the Bracktown Baptist Church facility also in close proximity.

Mr. Sallee displayed the following photographs of the subject property: 1) an aerial view of the property from the east, noting that a gas station was formerly located there for about 80 years as a non-conforming use in the R-1D zone; 2) a view of the former gas station, which was most recently used for minor auto repair; 3) a closer view of the gas station; 4) Leestown Road, near the entrance to the Federal Medical Center prison facility, noting that Leestown is currently being upgraded to four lanes at this location; 5) a view of Leestown Road; 6) a vehicle exiting Long Branch Lane from Leestown Road, noting the visible houses in the McConnell's Trace subdivision, some of which front on the small portion of Long Branch Lane near the subject property; 7) a view of Bracktown Road, on which the rear of the subject property has frontage; 8) a view to the north and west into Bracktown, noting the entrance to the church; and 9) an exhibit from the Bracktown Small Area Plan, which was done in the 1990s.

Mr. Sallee said that the Bracktown Small Area Plan allowed this portion of Fayette County to be included in the Urban Service Area, and addressed the needs of the Bracktown neighborhood. No change to the zoning or land use of the subject property was recommended as part of that Small Area Plan, although the property had previously been proposed for rezoning in 1997. That rezoning proposal was withdrawn. In 2000, the subject property went before the Board of Adjustment, due to a request by the owner for alcohol sales and the sale of trees and shrubs at this location. That application, which was an administrative appeal, was denied, in order to avoid the expansion of an existing non-conforming use.

Mr. Sallee stated that the petitioner is proposing to rezone the subject property in order to convert the existing building into a restaurant with off-street parking. The staff noted in their report that the subject property is different from many others in the area, in that it effectively has frontage on three sides. Most of the other parcels in Bracktown are double-frontage lots, but they are much more rectangular in shape, as are the newer subdivision lots to the south, on the former Marshall property. The Leestown Road highway expansion seems like a logical time to allow the subject property to be rezoned in a manner that would allow its expansion. Mr. Sallee noted that the staff does believe it is necessary, if the subject property is rezoned, to limit a number of uses via conditional zoning. The staff and the Zoning Committee are recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, explaining that the petitioner is proposing to re-use the existing building on the subject property and incorporate it into the new restaurant. The restaurant is proposed to be 5,000 square feet in size, with 25 parking spaces. One access is proposed from Leestown Road, and one from Bracktown Road.

Mr. Martin stated that the petitioner presented a revised plan at the Subdivision Committee meeting; that revision proposed the closure of one of the existing accesses to Bracktown Road. However, the petitioner has not officially filed a revision, so the staff has not been able to review it or create revised conditions. Mr. Martin noted that the staff is recommending, at the time of a Final Development Plan for the property, the resolution of a connection to Town Branch Trail. He said that the Subdivision Committee recommended approval of this plan, subject to the conditions as listed on the agenda.

Petitioner Presentation: Kevin Phillips, Endris Engineering, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendation.

Mr. Phillips stated that the subject property has been used for a commercial business for 80+ years, and the petitioner would like to continue and expand that use as a new restaurant. The petitioner contends that the purpose of the B-1 zone is to provide neighborhoods with facilities and services in close proximity to where people live.

Mr. Phillips displayed several photographs for the Commission members, noting that there are only two business zones in the vicinity: the site of the future Citation Village shopping center along the Citation Boulevard corridor, and

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the Frank Minnifield Enterprises historic business site. He displayed a map of other arterials in Lexington-Fayette County, noting the locations of other B-1 zones along those roadways.

Mr. Phillips stated that the B-1 zone does allow other uses besides restaurants, including banks, offices, beauty shops, daycares, and other neighborhood-oriented uses. Because of the proposed conditional zoning restrictions, particularly drive-through facilities, however, the petitioner contends that the proposed restaurant will not have a negative impact on the surrounding neighborhood. Fast-food restaurants and banks depend on drive-throughs for the majority of their business; and, without those facilities, the subject property should not generate a significant amount of traffic.

Brandon Green, petitioner, stated, with regard to the opposition letters received, that the Facebook account for the proposed restaurant was generating support and excitement online. He said that the subject property has been used as a business for 80+ years. Due to the subject property's frontage on Leestown Road, Mr. Green does not believe it is conducive to residential use, and he would request approval in order to move forward with the proposed restaurant.

Citizen Support: There were no citizens present in support of this request.

Citizen Opposition: Barb Stucker, president of the McConnell's Trace Neighborhood Association, stated that the rear of her property faces the subject property. She said that there are two homes in McConnell's Trace that face the subject property, and four homes at the end of the Long Branch Lane cul-de-sac, that currently have a view of the trail and adjoining open space. The residents' main concern is the possible loss of property value, since homes located as little as 40' from a busy restaurant are unlikely to sell.

Ms. Stucker said that residents are also concerned about possible noise from the proposed restaurant, including indoor entertainment. Residents are also concerned about lighting on the property, security and crime issues, and the possible issuance of a liquor license to the proposed restaurant. Since the rear of the restaurant will face the neighborhood, residents believe that the dumpster location could also become an issue, since it could attract vermin and generate unpleasant odors.

Ms. Stucker stated that residents believe that the proposed restaurant will generate a significant amount of additional traffic in the area, particularly on Bracktown Road. They are concerned that the proposed access to Leestown Road will be located at the point where the roadway widens to four lanes, which could increase the number of accidents and cause widespread traffic problems in the vicinity. Residents have also indicated that they would feel unsafe on the Town Branch Trail once the proposed restaurant opens, due to increased activity in the area. There have been problems in the past with drivers parking on Long Branch Lane to access the trail, or driving across the trail to reach the cul-de-sac, and residents believe the issue could be exacerbated by parking for the proposed restaurant. Should the restaurant be unsuccessful, residents are concerned about what type of business could locate on the subject property.

Ms. Stucker asked that the Planning Commission members consider how close the proposed restaurant will be to existing homes, and the effect that it could have on the peace and quiet in the neighborhood.

Olivia Escodero, 112 Long Branch Lane, stated that her home directly faces the subject property. She stated that she is concerned about overflow parking for the proposed restaurant, since drivers have used Long Branch Lane to provide access to the Bracktown Baptist Church child care center in the past.

Petitioner Rebuttal: Mr. Phillips stated, with regard to parking in the cul-de-sac and drivers crossing the trail, that those activities are not currently caused by the use of the subject property, since it is vacant; so, they should not be worsened by the location of a restaurant there. He noted that it is not illegal to park on a public street, and no parking has been provided for the Town Branch Trail, so it makes sense that some drivers might park on Long Branch Lane to access the trail. That activity, however, is also unrelated to the current use of the subject property.

With regard to the concerns about odors, lighting, and noise from the subject property, Mr. Phillips said that the proposed restaurant will be a small, family operation, and a much less intense use than typical fast-food businesses with drive-throughs. Any lighting on the property will be directed inward and downward, as required by the Zoning Ordinance, which requires lighting for safety in the parking lot. The petitioner does not propose to have live entertainment on the property, so the amount of noise generated should be minimal. Mr. Phillips stated that, should the restaurant no longer be in operation on the subject property, the proposed conditional zoning restrictions will limit the number of allowable uses, particularly since drive-through facilities will be prohibited.

Mr. Phillips said, in response to concerns about the view from the houses near the subject property, that, due to the existing pine trees on an adjoining parcel, those residents would be unlikely to see the proposed restaurant at all. He displayed several photographs taken from the driveways of those homes located on the cul-de-sac, noting that the existing building on the property was not visible. Mr. Phillips stated that it would be unreasonable to think that the subject property will never be redeveloped, so the cul-de-sac residents will not have always have an open view of the

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park. The existing building on the property has been in place for over 80 years, long before the adjoining neighborhood was developed, and the petitioner contends that allowing the property to remain vacant would not be its highest and best use.

Mr. Phillips added, with regard to concerns about the safety of the proposed access to Leestown Road, that the Kentucky Transportation Cabinet (KYTC) provided infrastructure for two accesses to the subject property, but the petitioner is requesting only one narrower entrance, further from the nearest intersection. KYTC has approved the one proposed access.

Citizen Rebuttal: Ms. Stucker agreed that there was an existing business on the subject property when the neighborhood was constructed, but noted that it was a very quiet, low-impact operation. She added that Mr. Phillips did not address the question of loss of property value as a result of the proposed restaurant.

Staff Rebuttal: Mr. Sallee indicated that the staff had no rebuttal comments.

Commission Discussion: Mr. Owens stated that the hearing was now closed, and he opened the floor for Commission questions and/or comments.

Ms. Plumlee thanked the neighbors for their participation. She noted that the LFUCG Zoning Ordinance does an excellent job of regulating planning and zoning issues in the community, but it does not guarantee peace and quiet for any property owner. Ms. Plumlee stated that, as the proposed restaurant moves forward, the residents' concerns about lighting, noise, and the dumpster location should be addressed, and that the conditional zoning restrictions should help to mitigate the impact on the adjoining neighborhood.

Mr. Owens echoed Ms. Plumlee's statements, thanking the citizens for their participation. He noted that this is a preliminary zoning development plan, and that the Commission will have the opportunity to review a Final Development Plan for the property if the proposed restaurant goes forward. He added that the subject property has been used for many years, and he believes that redevelopment there is inevitable.

Zoning Action: A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 8-0 (Mundy, Penn, and Smith absent) to approve MAR 2015-21, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 8-0 (Mundy, Penn, and Smith absent) to approve ZDP 2015-82, subject to the conditions as listed on the agenda.

* - Denotes date by which Commission must either approve or disapprove request.

Rec'd by KT
Date: 10/9/15

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: MAR 2015-21: JOURNEY'S END, LLC - petition for a zone map amendment from a Single Family Residential (R-1E) zone to a Neighborhood Business (B-1) zone, for 0.6439 net (0.8714 gross) acre, for property located at 3092 & 3094 Leestown Road. (Council District 2)

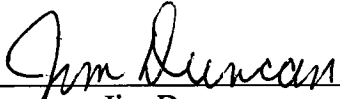
Having considered the above matter on September 24, 2015, at a Public Hearing, and having voted 8-0 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reason:

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted via conditional zoning:
Prohibited Uses
 - a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
 - b. Carnivals and circuses on a temporary basis.
 - c. Repair of household appliances.
 - d. Miniature golf or putting courses.
 - e. Indoor theaters.
 - f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
 - g. Banquet facilities.
 - h. Drive-through facilities.

- i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
- j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

ATTEST: This 9th day of October, 2015.



 Secretary, Jim Duncan

MIKE OWENS
 CHAIR

Note: The corollary development plan, ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, was approved by the Planning Commission on September 24, 2015 and certified on October 8, 2015.

K.R.S. 100.211(7) requires that the Council take action on this request by December 23, 2015.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Kevin Phillips, land surveyor.**

OBJECTORS

- Barb Stucker, president of the McConnell's Trace Neighborhood Association
- Olivia Escodero, 112 Long Branch Lane

OBJECTIONS

- She is concerned about the potential effects of the proposed restaurant on the adjoining neighborhood, including: lighting, noise, odors, traffic, pedestrian safety, and the viewshed from her property.
- She is concerned that overflow parking from the proposed restaurant could become an issue for residents of the Long Branch Lane cul-de-sac.

VOTES WERE AS FOLLOWS:

AYES: (8) Berkley, Brewer, Cravens, Drake, Owens, Plumlee, Richardson, Wilson

NAYS: (0)

ABSENT: (3) Mundy, Penn, Smith

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for CONDITIONAL APPROVAL of MAR 2015-21 carried.

Enclosures: Application
 Plat
 Staff Report
 Applicable excerpts of minutes of above meeting

MAR 2015-21

Date Received 013/15

Pre-application Date 7/17/15

Filing Fee \$ 470.00

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

1. ADDRESS INFORMATION (Name, Address, City/State/Zip, & PHONE NO.)

APPLICANT: Journey's End, LLC, 3068 Sandersville Road, Lexington, KY 40511

OWNER: Waynard Darrell Ford, 306 Hidden Springs Drive, Somerset, Kentucky 42503

ATTORNEY: None

2. ADDRESS OF APPLICANTS PROPERTY (ATTACH LEGAL DESCRIPTION)

3092 & 3094 Leestown Road, Lexington, KY 40511

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed-same format.)

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-ID	Minor Motor Vehicle Repair	B-1	Sit down restaurant	0.6439	0.8714

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Masterson Station Park	A-R
East	Residential	R-ID
South	Vacant	R-ID
West	Residential	R-ID

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved? YES NO

b. Have any such dwelling units been present on the subject property within the past 12 months? YES NO

c. Are these units currently occupied by households earning 40% of the median income? YES NO
 If yes, how many units? n.a UNITS
 If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other Septic
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input type="checkbox"/> LFUCG	<input checked="" type="checkbox"/> Other		
Utilities	<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone <input type="checkbox"/> Cable

7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is ... in agreement with the Comp. Plan more appropriate than the current zoning due to unanticipated changes

8. APPLICANT/OWNER SIGNS THIS CERTIFICATION.

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am OWNER or HOLDER of an agreement to purchase this property since July 2012

APPLICANT Waynard Darrell Ford DATE 8-1-15

OWNER W.D. Ford DATE 8-3-15

LFUCG EMPLOYEE/OFFICER, if applicable _____ DATE _____

3092 & 3094 Leestown Road
Zone Change Justification

The property has served the local community as an automotive garage for over 80 years. It is currently a legal non-conforming business (B-1) in a residential zone (R1-D). Because of the property's long historic commercial use and its relative location to the residents in Bracktown, it is not suitable or properly situated for residential purposes. The given zoning classification is, therefore, inappropriate and the proposed zone change is appropriate.

Bracktown, Masterson Station, and McConnell's Trace have recently experienced a growth surge, and the food services supplied by the Kroger Plaza and Townley Center are not conveniently available. The residents both need and desire expanded food services that the subject property will provide. These major changes in the economic, physical and social nature within the area were not anticipated in the Comprehensive plan and the changes have substantially altered the area's basic character. The comprehensive plan does make mention to the economic growth of Leestown Road as a whole pertaining to the Leestown Expansion Project, thusly this particular zone change would be in line to keep with the character of such expansion.

The Leestown area as a whole is transforming in new and exciting ways. With the Leestown expansion project the area is getting new economic development and this project will fit in appropriately to the new overall feel of the Leestown area. Given that the suitability of the land is not fit for residential use, and the business that is currently located on the land is in disrepair, this property needs to be updated in order to become an asset to the local community, rather than an eyesore.

The property owner desires to improve the aesthetics of the local community by revitalizing this portion of Bracktown and Leestown Road. With the zoning listed as R1-D no improvements can be made to the land or to the building, thusly the building has not kept up with the local aesthetics and we wish to change that to make it a business that the community is proud to call its own. The applicant seeks to bring his property in conformity with the applicable zone use to benefit of the community.

LEGAL DESCRIPTION

Leestown Heights Subdivision - Lots 2-7

(Plat Cabinet E, Slide 584)

Zone Change from R-1D to B-1

#3092 & 3094 Leestown Road,
Lexington, Fayette County, Kentucky

Being a parcel of land in the city of Lexington, Fayette County, Kentucky lying on the southwest side of Leestown Road, northwest of Bracktown Road and more particularly described as:

BEGINNING at a point in the centerline of Leestown Road, said point being approximately 41.5' north of the centerline of Bracktown Road, and said point having Kentucky State Plane Coordinates of $E(X)=1,551,060.05'$, $N(Y)=215,698.37'$ (NAD 83, KY North Zone, US Survey Feet); thence leaving the centerline of Leestown Road, South $52^{\circ}23'53''$ West a distance of 35.61' to a point in the northwest right-of-way of Bracktown Road (Deed Book 2979, Page 381), said point also being a corner to Dennis R Anderson (Deed Book 2107, Page 520 - Parcel 1 of Plat Cabinet M, Slide 46); thence continuing with the aforementioned Dennis Anderson (Parcel 1 & 2 of Plat Cabinet M, Slide 46) for two (2) calls:

South $52^{\circ}23'53''$ West a distance of 66.69' to a point; thence

North $45^{\circ}41'07''$ West a distance of 178.48' to a point in the northeast right-of-way of Bracktown Road; thence leaving the right-of-way, South $69^{\circ}13'27''$ West a distance of 25.13' to a point in the centerline of Bracktown Road; thence with the centerline of Bracktown Road for two (2) calls:

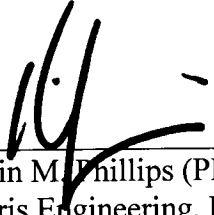
with a curve turning to the left with an arc length of 93.43', with a radius of 250.00', with a chord bearing of North $31^{\circ}28'56''$ West, with a chord length of 92.89', to a point; thence North $45^{\circ}41'07''$ West a distance of 23.90' to a point; thence leaving the centerline and with the southeast line of First Baptist Church Bracktown (Deed Book 2720, Page 708), North

52°23'53" East a distance of 144.91' to a point in the centerline of Leestown Road; thence with the centerline of Leestown Road, South 37°36'07" East a distance of 300.00' to a point; which is the Point of Beginning, having a Gross area of 0.8714 acres, and a Net area of 0.6439 acres.

The Bearings and coordinates shown hereon are based on Kentucky State Plane Grid North, Kentucky State Plane North Zone, North American Datum of 1983 (NAD 83). Particularly, the bearings and coordinates are based on a GNSS Survey Utilizing a Trimble R6 GNSS Receiver and the KYTC VRS System.

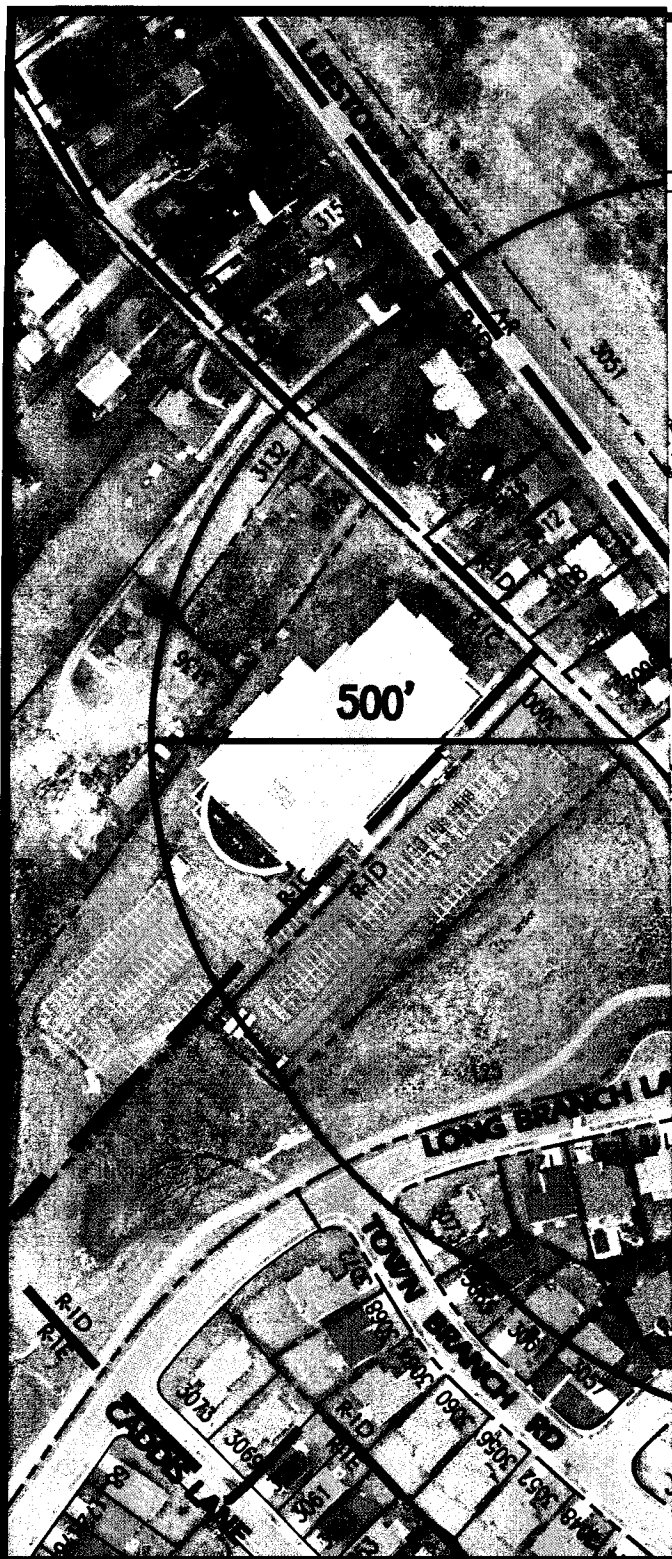
The description above being based on an actual ground survey of the property conducted under the direct supervision of Kevin Phillips (PLS 3350), of Endris Engineering, 771 Enterprise Drive, Lexington, Kentucky concluding on July 31, 2015.




Kevin M. Phillips (PLS 3350)
Endris Engineering, PSC
771 Enterprise Drive
Lexington, KY 40510

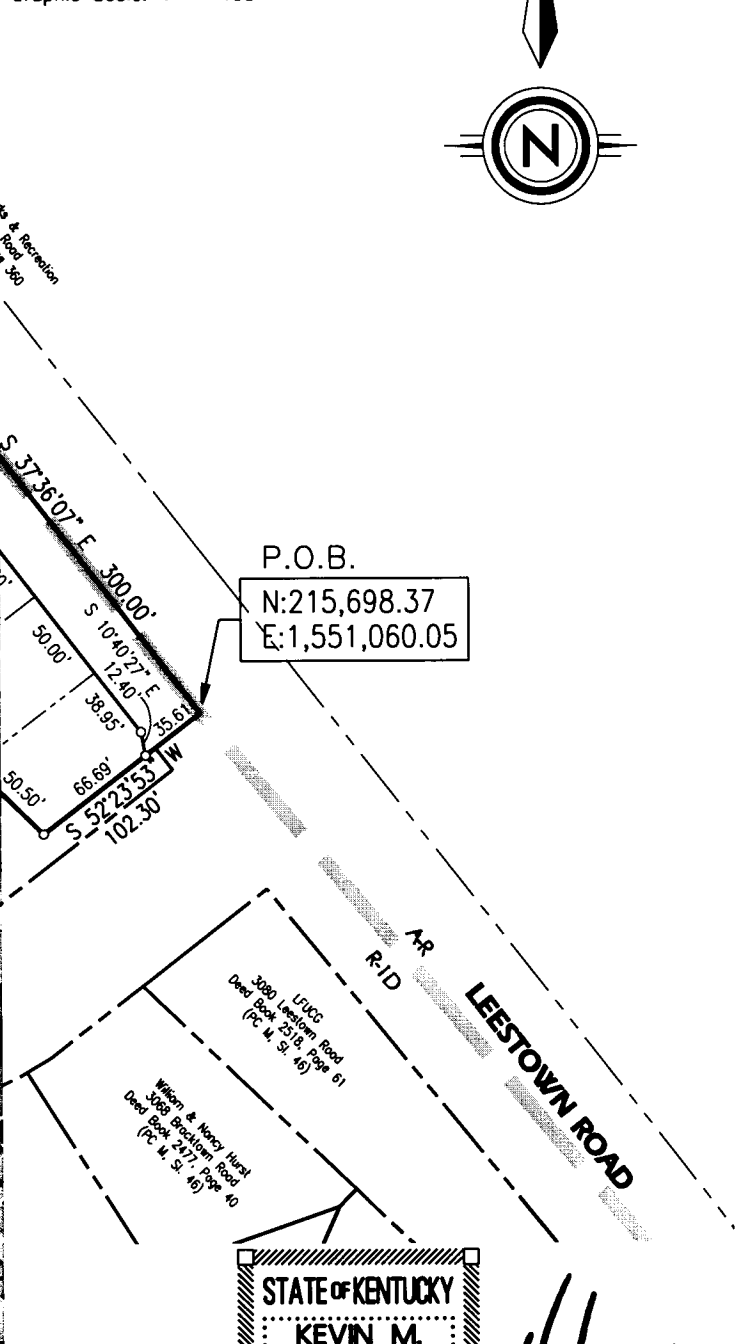
08-02-2015
Date

Z:\3481 Leestown Rd
 ing\3481 Notification Map.dwg, Layout1, 8/7/2015 3:04:42 PM, RICOH Aficio MP C4500 PCL5c, 1:1, JMN



NOTIFICATION AREA MAP

PROPERTY MAP
 100' 200'
 Graphic Scale: 1" = 100'



P.O.B.
 N:215,698.37
 E:1,551,060.05

STATE OF KENTUCKY
 KEVIN M. PHILLIPS
 3350
 LICENSED PROFESSIONAL LAND SURVEYOR

[Signature]
 08-03-2015

PREPARED BY:

	TO	NET	GROSS
	B-1	0.6439	0.8714

EE ENDI
engineers
 Land Surveyors • Construction Layout

PROJECT: Leestown Heights Subdivision - Lots 2-7
 ADDRESS: #3092 & 3094 Leestown Road - Lexington - KY
 CLIENT: Journey's End, LLC
 SURVEYOR: Waynard Darrell Ford
 DATE FILED OR AMENDED: August 03, 2015

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-21: JOURNEY'S END, LLC

DESCRIPTION

Zone Change: From a Single Family Residential (R-1D) zone
To a Neighborhood Business (B-1) zone

Acres: 0.6439 net (0.8714 gross) acre

Location: 3092 & 3094 Leestown Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-1D	Non-conforming commercial use
To North	A-R	Masterson Station Park
To East	R-1D	Single Family Residential and Vacant
To South	R-1D	Vacant and Church
To West	R-1C & R-1D	Vacant and Single Family Residential

URBAN SERVICES REPORT

Roads – Leestown Road (US 421), which provides some of the subject property's lot frontage, extends from downtown to the Fayette/Scott County line. Along the property's frontage, the roadway transitions from a three-lane cross-section to a two-lane cross-section as it approaches the Federal Correction Facility to the northwest. Closer to New Circle Road, Leestown Road is currently undergoing a major widening and improvement project. Bracktown Road, the former US 421 route, provides the remainder of the frontage for the subject property. The entrance to the site is from Leestown Road, but a future access to Bracktown Road is possible for this location. The access point to Leestown Road will be constructed by the Kentucky Transportation Cabinet. Any modifications will require approval of both the KYTC and the LFUCG Division of Traffic Engineering.

Curb/Gutter/Sidewalks – Curbs, gutters and sidewalks do not exist along Leestown Road or along most of Bracktown Road. However, a pedestrian and bicycle trail does access two residential lots immediately to the southeast of the subject property.

Storm Sewers – Storm sewers and a storm water basin exist to serve the nearby Marshall Property subdivision; however, the subject property, located within the same watershed, is not currently served. There is no FEMA flood hazard area, nor are there any known flooding problems, in the immediate vicinity. The Division of Engineering will evaluate the applicant's plan to determine whether any further modifications are necessary due to the proposed increase to building coverage now proposed on the subject site.

Sanitary Sewers – The subject property, as well as the entire surrounding area, is within the Town Branch sewershed. The Town Branch Wastewater Treatment Plant is located approximately two miles to the southeast of the site (off of Lisle Industrial Road along the Town Branch Creek). The subject property has been served by a septic system, rather than by sanitary sewers, for decades.

Refuse – Refuse collection is provided by the Urban County Government on Thursdays in this part of the Urban Service Area. Oftentimes, commercial properties contract with private companies for more frequent service.

Police – The subject property is within Police Sector 1 and is served by the West Sector Roll Call Center, which is located on Old Frankfort Pike, approximately three miles to the south.

Fire/Ambulance – The nearest fire station/emergency provider (Station #13) is located on Leestown Road, about two miles southeast of the property.

Utilities – Natural gas, telephone service, electric, water, streetlights, and cable service are all available to surrounding properties, and should be able to be easily extended to serve the subject site, if not already providing such service.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting

the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner has requested a Neighborhood Business (B-1) zone for the subject property in order to expand the existing commercial building on the site for a new sit-down restaurant.

CASE REVIEW

The petitioner has requested a zone change from a Single Family Residential (R-1D) zone to a Neighborhood Business (B-1) zone for just under one acre of property, located on the southwest corner of the intersection of Leestown Road and Bracktown Road.

The subject site is comprised of the remainder of six original lots in the Leestown Heights Subdivision, created decades before merger of the Urban County and Lexington City governments, which together encompass the area of this zone change. The subject property is across from Masterson Station Park, and adjacent to homes in the Marshall Property subdivision. Bracktown Baptist Church is located across Bracktown Road from the site, and owns a vacant lot adjacent to the subject property immediately to the northwest of this location. Another small, vacant lot "wraps" the site to the southeast and southwest.

The subject property has extensive frontage along Leestown Road, which transitions from two to four lanes immediately to the southeast of this location. The property has been used for commercial purposes for decades, and is a non-conforming use. It has had numerous requests for land use changes and one previous attempt for a rezoning in 1997 (MAR 97-25: John Brotherton). That staff report gives a good bit of information about the history of this location:

"The 3092 Leestown Road tract is currently occupied by J's Auto Center, which is a non-conforming use. Although zoned single family residential (R-1D) for at least 30 years, the property has been occupied by a gas station for several decades. The existing (gas station) structure is about 1,000 square feet in size, and as a non-conforming use, cannot be expanded. The 3094 Leestown Road tract is vacant, with the exception of concrete or asphalt paving for the non-conforming auto-related use."

In 1998, a sub-committee of the Planning Commission drafted and completed the Bracktown Small Area Plan. Future land use recommendations and a modest expansion of the Urban Service Area were made, where the Marshall Property and the Bracktown neighborhood were taken from the Rural Service Area. That Small Area Plan, which included extensive neighborhood involvement, did not recommend a commercial land use at this location. The applicant does not opine that this current zone is in agreement with the 2013 Comprehensive Plan, with which the staff concurs.

In June of 2000, a request was made to the Division of Building Inspection to allow beer sales and the sale of trees and shrubs at this site. That request was denied by Building Inspection, and an Administrative Appeal of that decision was filed by the property owner to the Board of Adjustment (A-2000-92: John Brotherton), which was not approved by the Board.

This portion of the Urban Service Area is generally devoid of commercial land uses and zoning. Still, a commercial land use has occupied this location for many decades. The applicant now wishes to convert the former repair shop to a sit-down restaurant, and formalize the off-street parking on this lot. They justify their request with the statement that the current R-1D zoning is inappropriate, and the proposed Neighborhood Business (B-1) zoning is appropriate.

Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes. There are residences to the west that also have lot frontage along both Leestown and Bracktown Roads, but those properties are more rectangular in shape, and are bordered by other residences. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a real-estate perspective.

The highway expansion project for US 421 is the proper time to recognize a commercial use that has not gone away since at least 1952, and allow its conversion into a small restaurant or business to serve the nearby residential areas. The requested Neighborhood Business (B-1) zone is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location. Conditional zoning restrictions are necessary in this circumstance, due to the adjacency of a large church and an established neighborhood in close proximity to this property. Of particular concern to the staff are entertainment-type land uses, and package sales of alcohol (but not accessory sales within a restaurant).

The Staff Recommends Approval, for the following reason:

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall restricted via conditional zoning:

Prohibited Uses

- a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
- b. Carnivals and circuses on a temporary basis.
- c. Repair of household appliances.
- d. Miniature golf or putting courses.
- e. Indoor theaters.
- f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
- g. Banquet facilities.
- h. Drive-through facilities.
- i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
- j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

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STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-21: JOURNEY'S END, LLC

DESCRIPTION

Zone Change: From a Single Family Residential (R-1D) zone
To a Neighborhood Business (B-1) zone

Acreage: 0.6439 net (0.8714 gross) acre

Location: 3092 & 3094 Leestown Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-1D	Non-conforming commercial use
To North	A-R	Masterson Station Park
To East	R-1D	Single Family Residential and Vacant
To South	R-1D	Vacant and Church
To West	R-1C & R-1D	Vacant and Single Family Residential

URBAN SERVICES REPORT

Roads – Leestown Road (US 421), which provides some of the subject property's lot frontage, extends from downtown to the Fayette/Scott County line. Along the property's frontage, the roadway transitions from a three-lane cross-section to a two-lane cross-section as it approaches the Federal Correction Facility to the northwest. Closer to New Circle Road, Leestown Road is currently undergoing a major widening and improvement project. Bracktown Road, the former US 421 route, provides the remainder of the frontage for the subject property. The entrance to the site is from Leestown Road, but a future access to Bracktown Road is possible for this location. The access point to Leestown Road will be constructed by the Kentucky Transportation Cabinet. Any modifications will require approval of both the KYTC and the LFUCG Division of Traffic Engineering.

Curb/Gutter/Sidewalks – Curbs, gutters and sidewalks do not exist along Leestown Road or along most of Bracktown Road. However, a pedestrian and bicycle trail does access two residential lots immediately to the southeast of the subject property.

Storm Sewers – Storm sewers and a storm water basin exist to serve the nearby Marshall Property subdivision; however, the subject property, located within the same watershed, is not currently served. There is no FEMA flood hazard area, nor are there any known flooding problems, in the immediate vicinity. The Division of Engineering will evaluate the applicant's plan to determine whether any further modifications are necessary due to the proposed increase to building coverage now proposed on the subject site.

Sanitary Sewers – The subject property, as well as the entire surrounding area, is within the Town Branch sewershed. The Town Branch Wastewater Treatment Plant is located approximately two miles to the southeast of the site (off of Lisle Industrial Road along the Town Branch Creek). The subject property has been served by a septic system, rather than by sanitary sewers, for decades.

Refuse – Refuse collection is provided by the Urban County Government on Thursdays in this part of the Urban Service Area. Oftentimes, commercial properties contract with private companies for more frequent service.

Police – The subject property is within Police Sector 1 and is served by the West Sector Roll Call Center, which is located on Old Frankfort Pike, approximately three miles to the south.

Fire/Ambulance – The nearest fire station/emergency provider (Station #13) is located on Leestown Road, about two miles southeast of the property.

Utilities – Natural gas, telephone service, electric, water, streetlights, and cable service are all available to surrounding properties, and should be able to be easily extended to serve the subject site, if not already providing such service.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting

the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner has requested a Neighborhood Business (B-1) zone for the subject property in order to expand the existing commercial building on the site for a new sit-down restaurant.

CASE REVIEW

The petitioner has requested a zone change from a Single Family Residential (R-1D) zone to a Neighborhood Business (B-1) zone for just under one acre of property, located on the southwest corner of the intersection of Leestown Road and Bracktown Road.

The subject site is comprised of the remainder of six original lots in the Leestown Heights Subdivision, created decades before merger of the Urban County and Lexington City governments, which together encompass the area of this zone change. The subject property is across from Masterson Station Park, and adjacent to homes in the Marshall Property subdivision. Bracktown Baptist Church is located across Bracktown Road from the site, and owns a vacant lot adjacent to the subject property immediately to the northwest of this location. Another small, vacant lot "wraps" the site to the southeast and southwest.

The subject property has extensive frontage along Leestown Road, which transitions from two to four lanes immediately to the southeast of this location. The property has been used for commercial purposes for decades, and is a non-conforming use. It has had numerous requests for land use changes and one previous attempt for a rezoning in 1997 (MAR 97-25: John Brotherton). That staff report gives a good bit of information about the history of this location:

"The 3092 Leestown Road tract is currently occupied by J's Auto Center, which is a non-conforming use. Although zoned single family residential (R-1D) for at least 30 years, the property has been occupied by a gas station for several decades. The existing (gas station) structure is about 1,000 square feet in size, and as a non-conforming use, cannot be expanded. The 3094 Leestown Road tract is vacant, with the exception of concrete or asphalt paving for the non-conforming auto-related use."

In 1998, a sub-committee of the Planning Commission drafted and completed the Bracktown Small Area Plan. Future land use recommendations and a modest expansion of the Urban Service Area were made, where the Marshall Property and the Bracktown neighborhood were taken from the Rural Service Area. That Small Area Plan, which included extensive neighborhood involvement, did not recommend a commercial land use at this location. The applicant does not opine that this current zone is in agreement with the 2013 Comprehensive Plan, with which the staff concurs.

In June of 2000, a request was made to the Division of Building Inspection to allow beer sales and the sale of trees and shrubs at this site. That request was denied by Building Inspection, and an Administrative Appeal of that decision was filed by the property owner to the Board of Adjustment (A-2000-92: John Brotherton), which was not approved by the Board.

This portion of the Urban Service Area is generally devoid of commercial land uses and zoning. Still, a commercial land use has occupied this location for many decades. The applicant now wishes to convert the former repair shop to a sit-down restaurant, and formalize the off-street parking on this lot. They justify their request with the statement that the current R-1D zoning is inappropriate, and the proposed Neighborhood Business (B-1) zoning is appropriate.

Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes. There are residences to the west that also have lot frontage along both Leestown and Bracktown Roads, but those properties are more rectangular in shape, and are bordered by other residences. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a real-estate perspective.

The highway expansion project for US 421 is the proper time to recognize a commercial use that has not gone away since at least 1952, and allow its conversion into a small restaurant or business to serve the nearby residential areas. The requested Neighborhood Business (B-1) zone is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location. Conditional zoning restrictions are necessary in this circumstance, due to the adjacency of a large church and an established neighborhood in close proximity to this property. Of particular concern to the staff are entertainment-type land uses, and package sales of alcohol (but not accessory sales within a restaurant).

The Staff Recommends Approval, for the following reason:

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall restricted via conditional zoning:

Prohibited Uses

- a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
- b. Carnivals and circuses on a temporary basis.
- c. Repair of household appliances.
- d. Miniature golf or putting courses.
- e. Indoor theaters.
- f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
- g. Banquet facilities.
- h. Drive-through facilities.
- i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
- j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

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Note: Ms. Mundy left the meeting at this time.

5. JOURNEY'S END, LLC, ZONING MAP AMENDMENT & LEESTOWN HEIGHTS SUBDIVISION, LOTS 2-7 ZONING DEVELOPMENT PLAN

- a. MAR 2015-21: JOURNEY'S END, LLC (11/1/15)* - petition for a zone map amendment from a Single Family Residential (R-1E) zone to a Neighborhood Business (B-1) zone, for 0.6439 net (0.8714 gross) acre, for property located at 3092 & 3094 Leestown Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner has requested a Neighborhood Business (B-1) zone for the subject property in order to expand the existing commercial building on the site for a new sit-down restaurant.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reason:

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted via conditional zoning:

Prohibited Uses

 - a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
 - b. Carnivals and circuses on a temporary basis.
 - c. Repair of household appliances.
 - d. Miniature golf or putting courses.
 - e. Indoor theaters.
 - f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
 - g. Banquet facilities.
 - h. Drive-through facilities.
 - i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
 - j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

- b. ZDP 2015-82: LEESTOWN HEIGHTS SUBDIVISION, LOTS 2-7 (11/1/15)* - located at 3092 and 3094 Leestown Road. (Endris Engineering)

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.

* - Denotes date by which Commission must either approve or disapprove request.

5. Correct notes #3 & #8.
6. Clarify use of "comm. boxes" indicated on plan.
7. Denote interior landscaping dimensions.
8. Denote construction access location on plan.
9. Denote floor area ratio and lot coverage per Article 21 requirements.
10. Denote adjoining property zoning on plan.
11. Resolve access to Town Branch Trail at time of the final development plan.

Zoning Presentation: Mr. Sallee presented the staff report on this rezoning request, noting that the staff had received two letters and four emails in opposition to this request. He circulated these to the Commission this time. He oriented the Commission to the location of the subject property, which is comprised of two lots at the corner of Bracktown Road and Leestown Road, across from Masterson Station Park. Most of the zoning in the vicinity of the subject property is R-1C and R-1E, with the Bracktown Baptist Church facility also in close proximity.

Mr. Sallee displayed the following photographs of the subject property: 1) an aerial view of the property from the east, noting that a gas station was formerly located there for about 80 years as a non-conforming use in the R-1D zone; 2) a view of the former gas station, which was most recently used for minor auto repair; 3) a closer view of the gas station; 4) Leestown Road, near the entrance to the Federal Medical Center prison facility, noting that Leestown is currently being upgraded to four lanes at this location; 5) a view of Leestown Road; 6) a vehicle exiting Long Branch Lane from Leestown Road, noting the visible houses in the McConnell's Trace subdivision, some of which front on the small portion of Long Branch Lane near the subject property; 7) a view of Bracktown Road, on which the rear of the subject property has frontage; 8) a view to the north and west into Bracktown, noting the entrance to the church; and 9) an exhibit from the Bracktown Small Area Plan, which was done in the 1990s.

Mr. Sallee said that the Bracktown Small Area Plan allowed this portion of Fayette County to be included in the Urban Service Area, and addressed the needs of the Bracktown neighborhood. No change to the zoning or land use of the subject property was recommended as part of that Small Area Plan, although the property had previously been proposed for rezoning in 1997. That rezoning proposal was withdrawn. In 2000, the subject property went before the Board of Adjustment, due to a request by the owner for alcohol sales and the sale of trees and shrubs at this location. That application, which was an administrative appeal, was denied, in order to avoid the expansion of an existing non-conforming use.

Mr. Sallee stated that the petitioner is proposing to rezone the subject property in order to convert the existing building into a restaurant with off-street parking. The staff noted in their report that the subject property is different from many others in the area, in that it effectively has frontage on three sides. Most of the other parcels in Bracktown are double-frontage lots, but they are much more rectangular in shape, as are the newer subdivision lots to the south, on the former Marshall property. The Leestown Road highway expansion seems like a logical time to allow the subject property to be rezoned in a manner that would allow its expansion. Mr. Sallee noted that the staff does believe it is necessary, if the subject property is rezoned, to limit a number of uses via conditional zoning. The staff and the Zoning Committee are recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, explaining that the petitioner is proposing to re-use the existing building on the subject property and incorporate it into the new restaurant. The restaurant is proposed to be 5,000 square feet in size, with 25 parking spaces. One access is proposed from Leestown Road, and one from Bracktown Road.

Mr. Martin stated that the petitioner presented a revised plan at the Subdivision Committee meeting; that revision proposed the closure of one of the existing accesses to Bracktown Road. However, the petitioner has not officially filed a revision, so the staff has not been able to review it or create revised conditions. Mr. Martin noted that the staff is recommending, at the time of a Final Development Plan for the property, the resolution of a connection to Town Branch Trail. He said that the Subdivision Committee recommended approval of this plan, subject to the conditions as listed on the agenda.

Petitioner Presentation: Kevin Phillips, Endris Engineering, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendation.

Mr. Phillips stated that the subject property has been used for a commercial business for 80+ years, and the petitioner would like to continue and expand that use as a new restaurant. The petitioner contends that the purpose of the B-1 zone is to provide neighborhoods with facilities and services in close proximity to where people live.

Mr. Phillips displayed several photographs for the Commission members, noting that there are only two business zones in the vicinity: the site of the future Citation Village shopping center along the Citation Boulevard corridor, and

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the Frank Minnifield Enterprises historic business site. He displayed a map of other arterials in Lexington-Fayette County, noting the locations of other B-1 zones along those roadways.

Mr. Phillips stated that the B-1 zone does allow other uses besides restaurants, including banks, offices, beauty shops, daycares, and other neighborhood-oriented uses. Because of the proposed conditional zoning restrictions, particularly drive-through facilities, however, the petitioner contends that the proposed restaurant will not have a negative impact on the surrounding neighborhood. Fast-food restaurants and banks depend on drive-throughs for the majority of their business; and, without those facilities, the subject property should not generate a significant amount of traffic.

Brandon Green, petitioner, stated, with regard to the opposition letters received, that the Facebook account for the proposed restaurant was generating support and excitement online. He said that the subject property has been used as a business for 80+ years. Due to the subject property's frontage on Leestown Road, Mr. Green does not believe it is conducive to residential use, and he would request approval in order to move forward with the proposed restaurant.

Citizen Support: There were no citizens present in support of this request.

Citizen Opposition: Barb Stucker, president of the McConnell's Trace Neighborhood Association, stated that the rear of her property faces the subject property. She said that there are two homes in McConnell's Trace that face the subject property, and four homes at the end of the Long Branch Lane cul-de-sac, that currently have a view of the trail and adjoining open space. The residents' main concern is the possible loss of property value, since homes located as little as 40' from a busy restaurant are unlikely to sell.

Ms. Stucker said that residents are also concerned about possible noise from the proposed restaurant, including indoor entertainment. Residents are also concerned about lighting on the property, security and crime issues, and the possible issuance of a liquor license to the proposed restaurant. Since the rear of the restaurant will face the neighborhood, residents believe that the dumpster location could also become an issue, since it could attract vermin and generate unpleasant odors.

Ms. Stucker stated that residents believe that the proposed restaurant will generate a significant amount of additional traffic in the area, particularly on Bracktown Road. They are concerned that the proposed access to Leestown Road will be located at the point where the roadway widens to four lanes, which could increase the number of accidents and cause widespread traffic problems in the vicinity. Residents have also indicated that they would feel unsafe on the Town Branch Trail once the proposed restaurant opens, due to increased activity in the area. There have been problems in the past with drivers parking on Long Branch Lane to access the trail, or driving across the trail to reach the cul-de-sac, and residents believe the issue could be exacerbated by parking for the proposed restaurant. Should the restaurant be unsuccessful, residents are concerned about what type of business could locate on the subject property.

Ms. Stucker asked that the Planning Commission members consider how close the proposed restaurant will be to existing homes, and the effect that it could have on the peace and quiet in the neighborhood.

Olivia Escodero, 112 Long Branch Lane, stated that her home directly faces the subject property. She stated that she is concerned about overflow parking for the proposed restaurant, since drivers have used Long Branch Lane to provide access to the Bracktown Baptist Church child care center in the past.

Petitioner Rebuttal: Mr. Phillips stated, with regard to parking in the cul-de-sac and drivers crossing the trail, that those activities are not currently caused by the use of the subject property, since it is vacant; so, they should not be worsened by the location of a restaurant there. He noted that it is not illegal to park on a public street, and no parking has been provided for the Town Branch Trail, so it makes sense that some drivers might park on Long Branch Lane to access the trail. That activity, however, is also unrelated to the current use of the subject property.

With regard to the concerns about odors, lighting, and noise from the subject property, Mr. Phillips said that the proposed restaurant will be a small, family operation, and a much less intense use than typical fast-food businesses with drive-throughs. Any lighting on the property will be directed inward and downward, as required by the Zoning Ordinance, which requires lighting for safety in the parking lot. The petitioner does not propose to have live entertainment on the property, so the amount of noise generated should be minimal. Mr. Phillips stated that, should the restaurant no longer be in operation on the subject property, the proposed conditional zoning restrictions will limit the number of allowable uses, particularly since drive-through facilities will be prohibited.

Mr. Phillips said, in response to concerns about the view from the houses near the subject property, that, due to the existing pine trees on an adjoining parcel, those residents would be unlikely to see the proposed restaurant at all. He displayed several photographs taken from the driveways of those homes located on the cul-de-sac, noting that the existing building on the property was not visible. Mr. Phillips stated that it would be unreasonable to think that the subject property will never be redeveloped, so the cul-de-sac residents will not have always have an open view of the

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park. The existing building on the property has been in place for over 80 years, long before the adjoining neighborhood was developed, and the petitioner contends that allowing the property to remain vacant would not be its highest and best use.

Mr. Phillips added, with regard to concerns about the safety of the proposed access to Leestown Road, that the Kentucky Transportation Cabinet (KYTC) provided infrastructure for two accesses to the subject property, but the petitioner is requesting only one narrower entrance, further from the nearest intersection. KYTC has approved the one proposed access.

Citizen Rebuttal: Ms. Stucker agreed that there was an existing business on the subject property when the neighborhood was constructed, but noted that it was a very quiet, low-impact operation. She added that Mr. Phillips did not address the question of loss of property value as a result of the proposed restaurant.

Staff Rebuttal: Mr. Sallee indicated that the staff had no rebuttal comments.

Commission Discussion: Mr. Owens stated that the hearing was now closed, and he opened the floor for Commission questions and/or comments.

Ms. Plumlee thanked the neighbors for their participation. She noted that the LFUCG Zoning Ordinance does an excellent job of regulating planning and zoning issues in the community, but it does not guarantee peace and quiet for any property owner. Ms. Plumlee stated that, as the proposed restaurant moves forward, the residents' concerns about lighting, noise, and the dumpster location should be addressed, and that the conditional zoning restrictions should help to mitigate the impact on the adjoining neighborhood.

Mr. Owens echoed Ms. Plumlee's statements, thanking the citizens for their participation. He noted that this is a preliminary zoning development plan, and that the Commission will have the opportunity to review a Final Development Plan for the property if the proposed restaurant goes forward. He added that the subject property has been used for many years, and he believes that redevelopment there is inevitable.

Zoning Action: A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 8-0 (Mundy, Penn, and Smith absent) to approve MAR 2015-21, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 8-0 (Mundy, Penn, and Smith absent) to approve ZDP 2015-82, subject to the conditions as listed on the agenda.